

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16230 of D. Madden, pursuant to 11 DCMR 3108.1, for a special exception under Section 213 to establish a parking lot in an R-4 District at premises 704 17th Street, N.E. (Square 4510, Lot 826).

HEARING DATE: May 7, 1997
DECISION DATE: September 3, 1997

ORDER

SUMMARY OF EVIDENCE

The property which is the subject of this application is located on the west side of 17th Street between Gates Street, N.E. and an east-west public alley, one-half block south of Benning Road, N.E. The subject square, extending from Benning Road to Gates Street, N.E., is split-zoned C-M-1 and R-4.

The northern half of the subject square facing Benning Road is zoned C-M-1 and is developed with a medical building and other small businesses. The southern portion of the square facing Gates Street forms the boundary between the C-M-1 and R-4 Districts. The alley also provides access to garages and parking spaces for the rowhouses located to the south and the Benning Road businesses located to the north.

The R-4 District permits matter-of-right development of residential uses including detached, semi-detached and row single-family dwellings and flats with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and a maximum height limit of three stories/40 feet. Parking lots are allowed in an R-4 District with Board of Zoning Adjustment (BZA) approval.

The subject property is unimproved and is located on the southwestern corner of the intersection of the public alley and 17th Street, N.E. The subject site is generally rectangular in shape with a width of approximately 37 feet and an average length of approximately 126 feet. The site plan on file indicates that the proposed parking lot would have a total of nine parking spaces with access from the alley to the north.

The general character of the area is mixed commercial/residential, consisting of small businesses, rowhouses and garden apartments. Hechinger Mall is located across Benning Road from the subject site.

The applicant is requesting a special exception under the provisions of Section 213 of the Zoning Regulations to establish a parking lot. The applicant maintains that this application meets the provisions of Section 213 and Subsection 3108.1.

Subsections 213.2 – 213.5 – Parking Lots:

The applicant testified that the site is located in its entirety within 200 feet of the industrial C-M-1 District which it will serve. The subject site is contiguous to an east-west public alley, one-half block south of Benning Road, N.E.

The applicant testified that the use of the proposed nine parking spaces on the lot would not have any objectionable or adverse effects in the neighborhood by reason of noise, traffic or any other adverse conditions.

The applicant testified further that the proposed parking spaces would also reduce some overspill parking from the existing businesses onto the surrounding streets in the area.

Ms. Judith W. Richards of 1647 Limited Partnership submitted a letter dated April 16, 1997, opposing the special exception. She stated that based on the applicant's past performance, she would not rely on him to operate a parking lot in a legal, clear and safe manner that is consistent with neighborhood efforts to reduce eyesores, trash, crime and related problems.

Subsection 213.7 – Uses of the Spaces:

Under Subsection 213.7, the majority of the parking spaces must serve residential uses or short-term parking needs of retail, service and public facility uses in its vicinity.

The applicant testified that the area's community residents expressed their support for the proposal during a community meeting in 1996. The applicant testified that community residents would have access to the parking spaces once they are installed. The applicant submitted a list of signatures from several of the employees of the Medical Center adjacent to the property. The employees stated, that they would be willing to use the majority of the lot if the parking lots were constructed.

Subsection 213.8 – Referrals to Other Agencies:

This subsection requires the Board to refer this application to the Department of Public Works (DPW) for review and report. DPW, by its memorandum of May 8, 1997, had no objection to the application. DPW was of the opinion that the proposed parking lot might well be seen as a better improvement than the existing condition while an alternative use of the site was being considered.

Subsection 2303.1 (a) – (f) – Special Provisions:

The applicant testified that the proposed parking lot would comply with the special provisions required by this subsection by providing an all-weather impervious surface. The applicant submitted a revised physical layout and design of the proposed parking lot which would have a 15-foot wide single point of ingress and egress accessible from a 20-foot wide public alley.

The applicant proposes to provide a secure gate entrance which would allow only authorized parkers to enter. To ensure adequate safety to users, the lot would have lighting and would be periodically patrolled.

Subsection 2303.4 – Waiver Request:

The applicant requested that under the provisions of Subsection 2303.4, the requirements of a solid masonry wall be waived. The applicant stated that the evergreen hedges he would provide would be more than adequate and more attractive to meet the approval of all concerned and to increase the value of the adjacent properties.

Subsection 3108.1 – Harmony with the Zone Plan:

Under Section 3108.1, to grant a special exception, the proposed relief must be in harmony with the general purpose and intent of the zone plan, and must not tend to affect adversely the use of neighboring property.

The applicant maintains that the facility will be in harmony with the general purpose and intent of the zone plan.

The Office of Zoning (OZ), by report dated May 2, 1997, recommended approval of the application. OZ stated that it was not aware of any existing unsafe conditions that would create adverse traffic conditions. OZ believes that the proposed parking lot with nine spaces is reasonably necessary and convenient to the neighborhood, and its use would not have any objectionable or adverse impact by reason of noise or other conditions. Furthermore, the proposed parking lot would be in harmony with the general purpose and intent of the Zoning Regulations.

Advisory Neighborhood Commission (ANC) 6A passed a resolution on April 17, 1997, in support of the application. ANC 6A stated that the applicant, in his letter directed to the Commissioner for the area in which the proposed parking lot is located, promised to provide a light next to the pay telephone and to select a community resident who would have access to the property to ensure assistance in protecting the site against unwanted intrusion.

FINDINGS OF FACT

Based on the evidence of record, the Board finds as follows:

1. The subject property for the proposed parking lot is large enough to accommodate approximately 20 vehicles; however, in order to obtain enough turn-around room, 11 spaces were eliminated.
2. The nine spaces of the proposed parking lot are entirely within 200 feet of the existing C-C-M-1 industrial zone that the lot would serve.
3. The revised physical layout and design of the parking lot would have a wide point of ingress and egress which would be accessible from a 20-foot wide public alley.
4. The proposed parking lot is designed so that no vehicle or any part thereof would project over any lot line or building line.
5. The applicant does not plan to use the subject lot for any other purposes.

CONCLUSIONS OF LAW AND OPINION

Based on the evidence of record, the Board concludes that the applicant is seeking a special exception to allow the establishment of a parking lot on vacant land in an R-4 District. Granting such a special exception requires a showing through substantial evidence that the application can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that it will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The applicant must also meet the applicable requirements of Section 213 of the Zoning Regulations.

The Board concludes that the applicant has met the requisite burden of proof by complying with all of the relevant provisions of the Zoning Regulations as specified in Section 3108.1 and 213 of the Regulations. The Board is of the opinion that locating the parking spaces on the otherwise vacant lot will be in harmony with the purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring properties. The Board concludes that it has accorded the report of ANC 6A the "great weight" to which it is entitled.

Accordingly, the Board hereby **ORDERS** that the application be **GRANTED, SUBJECT** to the following conditions:

1. Approval shall be for a period of FIVE YEARS.
2. The hours of operation shall be between 7:00 a.m. and 6:00 p.m., Monday through Sunday.

3. Bumper stops shall be installed on the parking lot.
4. All parts of the lot shall be kept free of refuse and debris. Landscaping shall be provided and shall be maintained in a healthy growing condition and in a neat and orderly appearance.
5. The parking lot shall be secured after 6:00 p.m.
6. A seven-foot high fence and evergreen hedges shall be provided along the entire periphery of the parking lot.
7. The shrubs shall be planted outside the fence line rather than inside the fence line as shown on the plans.
8. The lighting of the lot shall be so arranged that all direct light is confined to the surface of the parking lot.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-0 (Laura M. Richards, Sheila Cross Reid and Susan M. Hinton to grant.
Betty King not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: 
for **MADELIENE H. DOBBINS**
Director

FINAL DATE OF ORDER: JAN 15 1998

PURSUANT TO D.C. CODE SECTION 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987, AND THIS ORDER IS CONDITIONED UPON FULL

COMPLIANCE WITH THOSE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ORD16230/JKAN/amb

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16230

As Director of the Board of Zoning Adjustment, I hereby certify and attest that on _____ a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

D.R. Madden
DRM & Associates
243 K Street, N.E., Suite #2
Washington, D.C. 20002

The Chairman
Advisory Neighborhood Commission 6A
700 Constitution Avenue, N.E., Suite 1-515
Washington, D.C. 20002

Tracey W. Rose
for MADELIENE H. DOBBINS
Director

DATE: JAN 15 1998